MT LEGISLATIVE HISTORY

Chapter 199 1961

Bill (H) 317 S _____ Original bill & hist. ___C

H. Committee on Public Health, Welfare + Safety S. Committee on Judiciary

Hearing Date(s)			Hearing Date(s)		
Feb 09	✓	C	Feb 23	✓	C
_____	___	C	_____	___	C
_____	___	C	_____	___	C
_____	___	C	_____	___	C
Date Out Feb 09	✓	C	Feb 23	✓	C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

The committee on Public Health, Welfare, and Safety met in Room 418, February 9, 1961, on adjournment, with twelve members present. The meeting was called to order by the Chairman.

The first order of business was consideration of House Bill 317. Mr. Joseph H. Roe was introduced by Mr. Jenson and spoke in favor of the bill. A similar bill was introduced at the last session of the legislature but was vetoed. This bill would create uniform adoption acts and is designed to eliminate confliction in two acts: one making a judge's report mandatory; and the other, discretionary. The present law does not provide for due process. There is no provision to provide protection for the child if adoption is not granted. This bill would provide future custody, clarify language, correct moral aspects by deleting several phases found to not impair a father's capability of being a good father, such as adultery or prison term for minor offenses. Other phases of the bill were also explained to the committee. An amendment (see copy of committee report) was accepted by the committee and it was moved by Mr. Melcher that House Bill 317, as amended, do pass. This motion was seconded and carried.

House Bill 280, which was previously discussed by this committee, on February 7, was again discussed. An amendment (see copy of committee report) was proposed by Mr. Spahr and accepted by the Committee. It was moved by Mr. Healy that House Bill 280, as amended, do pass. This motion was seconded and carried.

The committee then considered House Bill 35. After discussion by the committee it was decided this bill should not pass. This decision was in view of Senate Bills 127 and 128 in which provisions of House Bill 35 can be incorporated. It was moved by Mr. Bradford that House Bill 35 do not pass. This motion was seconded and carried.

The Committee then considered the cosmetology bills, House Bills: 435 (for which a substitute had been introduced), 337, 364, 366, 369, and 370. Substitute House Bill 435 was recommended by John Cavin, Attorney, representing the State Board of Cosmetologists. This bill contains all the amendments that have been proposed in other bills being considered and all provisions in this bill have been agreed on by the State Board for Cosmetology. The bill would provide requirement for Bond to be fixed in statutes at $5,000.00, this being necessary in case school goes out of business, and will provide refund to students. It would increase requirements for eligibility to take examination (necessary to have high-school education or its equivalent). This latter requirement will increase the professional qualities of this profession which very definitely could be a hazard to public health. internship appears in Substitute House Bill 435. This under guidance, will enable the profession to give better

We, your Committee on PUBLIC HEALTH,

having had under consideration HOUSE Bill No. 317

BILL FOR AN ACT ENTITLED: "AN ACT TO REPEAL SECTIONS 61-127 TO 61-137, BOTH INCLUSIVE, OF THE REVISED CODES OF MONTANA, 1947, RELATING TO THE ADOPTION OF CHILDREN: TO AMEND SECTION 61-205 OF THE REVISED CODES OF MONTANA, 1947, ENACTED AS SECTION 5, CHAPTER 240 OF THE SESSION LAWS OF THE THIRTY-FIFTH LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA OF 1957, TO PROVIDE THAT CONSENT TO ADOPTION NEED NOT BE REQUIRED FROM A FATHER OR MOTHER DIVORCED AND WHO HAS NOT CONTRIBUTED TO THE SUPPORT OF THE CHILD FOR A PERIOD OF ONE YEAR IF ABLE; AND DELETING CERTAIN EXCEPTIONS: TO AMEND SECTION 61-210 OF THE REVISED CODES OF MONTANA, 1947, ENACTED AS SECTION 10, CHAPTER 240 OF THE SESSION LAWS OF THE THIRTY-FIFTH LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA OF 1957, RELATING TO SUMMARY DECREE OF ADOPTION, [redacted] TO PROVIDE THAT THE REPORT SPECIFIED IN THE PREVIOUS SECTION REMAINS DISCRETIONARY; TO AMEND SECTION 61-211 OF THE REVISED CODES OF MONTANA, 1947, ENACTED AS SECTION 11, CHAPTER 240 OF THE SESSION LAWS OF THE THIRTY-FIFTH LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA OF 1957, RELATING TO INTERLOCUTORY AND FINAL DECREES OF ADOPTION, TO PROVIDE THAT PROPER NOTICES BE GIVEN OF THE HEARING BEFORE AN INTERLOCUTORY OR SUMMARY DECREE OF ADOPTION MAY BE ISSUED; TO AMEND SECTION 61-210 OF THE REVISED CODES OF MONTANA, 1947, RELATING TO PROCEDURE FOR ADOPTING AN ADULT; TO PROVIDE FOR PROPER PROCEDURE FOR ADOPTION OF AN ADULT; AMENDING CHAPTER 2, TITLE 61, REVISED CODES OF MONTANA, 1947, AS AMENDED, BY THE ADDITION OF SECTION 61-216, TO PROVIDE FOR THE CONSENT OF A MINOR PARENT; AND REPEALING ALL ACTS OR PARTS OF ACTS IN CONFLICT HEREWITH."

Respectfully report as follows: That House Bill No. 317 ~~In the second~~ be amended in Section 4, line 5, page 5, of the original bill, following the word "adoption" delete the remainder of the line and to the comma in the second line 6.

61-216 will then read as follows: "A parent who is a minor shall have the right to relinquish his or her child for adoption, and such relinquishment shall not be subject to revocation by reason of such minority.

AND AS SO AMENDED

Do Pass

DR. M. F. KELLER Chairman

February 23, 1961.

SENATE COMMITTEE ON JUDICIARY

The meeting of the Judiciary Committee was called to order by Chairman, Senator Mahone, at 8:30 A.M. on February 23, 1961. The following committee members were present:

Senators: Mahoney, Dussault, Grieve, McDonnell, Harken, McKenna, McKeon, Cumming and Cashmore.

Bills presented were:

H.B. 134 - Harken made the motion that H.B. #134 be not concurred in but that Senate Sub. for Sub. H. #134 do pass. Seconded by McDonnell. Motion carried and so ordered.

#135 - Dussault made the motion that HB135 be not concurred in but that Senate Sub House Bill #135 do pass. Harken seconded the motion. Motion carried and so ordered.

#192 - Rep. Bush, Missoula met with the committee.

#224 -Motion made and seconded that this bill be not concurred in. Motion carried and so ordered.

#102 - Motion made and seconded that this bill be not concurred in. Motion carried and so ordered.

#406 - Motion made and seconded that this bill be not concurred in. Motion carried and so ordered.

#388 - Motion made and seconded that this bill be concurred in. Motion carried and so ordered.

#355 - It was moved and seconded that this bill be not concurred in. Motion carried and so ordered.

#375 - Motion made that this bill be not concurred in. A second to the motion was made. Motion carried and so ordered.

#317 - Motion made that this bill be concurred in. A second to the motion was made. Motion carried and so ordered.

February 23,

MR. PRESIDENT:

We, your Committee on Judiciary

having had under consideration House Bill No. 317

"AN ACT TO REPEAL SECTIONS 61-127 TO 61-137, BOTH INCLUSIVE, OF CODES OF MONTANA, 1947, RELATING TO THE ADOPTION OF CHILDREN; TO SECTION 61-303 OF THE REVISED CODES OF MONTANA, 1947, ENACTED AS CHAPTER 244 OF THE SESSION LAWS OF THE THIRTY-FIFTH LEGISLATIVE THE STATE OF MONTANA OF 1957, TO PROVIDE THAT CONSENT TO ADOPTIO REQUIRED FROM A FATHER OR MOTHER DIVORCED AND WHO HAS NOT CONTRI SUPPORT OF THE CHILD FOR A PERIOD OF ONE YEAR IF ABLE; AND DELE EXCEPTIONS; TO AMEND SECTION 61-210 OF THE REVISED CODES OF MONT ENACTED AS SECTION 10, CHAPTER 244 OF THE SESSION LAWS OF THE TH LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA OF 1957, RELATING T DECREE OF ADOPTION, TO PROVIDE THAT THE REPORT SPECIFIED IN THE SECTION REMAINS DISCRETIONARY; TO AMEND SECTION 61-211 OF THE RE [illegible] OF MONTANA, 1947, ENACTED AS SECTION 11, CHAPTER 244 OF THE SESS OF THE THIRTY-FIFTH LEGISLATIVE ASSEMBLY OF THE STATE OF MONTANA RELATING TO INTERLOCUTORY AND FINAL DECREES OF ADOPTION, TO PROV PROPER NOTICES BE GIVEN OF THE HEARING BEFORE AN INTERLOCUTORY O DECREE OF ADOPTION MAY BE ISSUED; TO AMEND SECTION 61-140 OF TH CODES OF MONTANA, 1947, RELATING TO PROCEDURE FOR ADOPTING AN AD PROVID FOR PROPER PROCEDURE FOR ADOPTION OF AN ADULT; AMENDING TITLE 61, REVISED CODES OF MONTANA, 1947, AS AMENDED, BY THE ADD SECTION 61-216, TO PROVIDE FOR THE CONSENT OF A MINOR PARENT; A REPEALING ALL ACTS OR PARTS OF ACTS IN CONFLICT HEREWITH."

Respectfully report as follows: That House Bill No. 317

reasonable expenses incurred in the operation of the television district.

Exemption from tax on affidavit.

Section 15. The taxpayers in the television district who do not receive the signal of the television translator station or who receive direct reception from the television station from which the television translator repeats a signal or receive service through the medium of a community antenna system on which they are a subscriber in good standing will be exempt from the payment of the tax for the support of the television district provided they file an affidavit setting forth any of the grounds above mentioned, which affidavit shall be filed with the board of trustees who shall upon the receipt of such affidavit have the names of such persons so exempted from the tax stricken from the list of taxpayers certified to the board of county commissioners and shall not be liable for such tax.

Trustees' meeting.

Section 16. The board of trustees shall meet once a month at a regular time and place to transact the business of the district, the time and place to be fixed by the trustees and any change in the time and place of meetings must be given by publication of notice in a newspaper most likely to give notice to the taxpayers within such district. All such meetings shall be open in their entirety to the public and all meetings shall be held at some place within the area of the television district.

False claim made misdemeanor.

Section 17. Any person or persons who shall make a false or fraudulent claim for exemption as provided in this act shall be guilty of a misdemeanor.

Abandonment by petition.

Section 18. If at any time a petition for abandonment of the television district, signed by owners of television sets within the district, equal in number to not less than fifty one per cent (51%) of the registered electors who are owners of television sets, is filed with the board of trustees, the board of trustees shall forthwith notify the board or boards of county commissioners which created the district, and such board or boards of county commissioners shall by resolution immediately declare the district abandoned. All properties and monies remaining after the satisfaction of all debts and obligations of such abandoned district shall be deposited to the credit of the general fund of the county; and if the abandoned district

embraced areas in more than one county, properties and monies remaining after the satisfaction of all debts and obligations of such abandoned district shall be deposited to the credit of the general funds of such counties in proportion to the number of television sets in each county which were served by the district.

Repealing clause.

Section 19. All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1961.

CHAPTER 199

An Act to Repeal Sections 61-127 to 61-137, Both Inclusive, of the Revised Codes of Montana, 1947, Relating to the Adoption of Children; to Amend Section 61-205 of the Revised Codes of Montana, 1947, Enacted as Section 5, Chapter 240 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana of 1957, to Provide That Consent to Adoption Need Not be Required From a Father or Mother Divorced and Who Has Not Contributed to the Support of the Child for a Period of One Year if Able; and Deleting Certain Exceptions; to Amend Section 61-210 of the Revised Codes of Montana, 1947, Enacted as Section 10, Chapter 240 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana of 1957, Relating to Summary Decree of Adoption, to Provide That the Report Specified in the Previous Section Remains Discretionary; to Amend Section 61-211 of the Revised Codes of Montana, 1947, Enacted as Section II, Chapter 240 of the Session Laws of the Thirty-fifth Legislative Assembly of the State of Montana of 1957, Relating to Interlocutory and Final Decrees of Adoption, to Provide That Proper Notices be Given of the Hearing Before an Interlocutory or Summary Decree of Adoption May be Issued; to Amend Section 61-140 of the Revised Codes of Montana, 1947, Relating to Procedure for Adopting an Adult; to Provide for Proper Procedure for Adoption of an Adult; Amending Chapter 2, Title 61, Revised Codes of Montana, 1947, as Amended, by the Addition of Section 61-218, to Provide for the Consent of a Minor Parent; and

Repealing All Acts or Parts of Acts in Conflict Herewith.

Be it enacted by the Legislative Assembly of the State of Montana:

Repealing clause.

Section 1. That sections 61-127, 61-128, 61-129, 61-130, 61-131, 61-132, 61-133, 61-134, 61-135, 61-136, and 61-137 of the Revised Codes of the State of Montana, 1947, be, and the same are hereby repealed.

Amending clause.

Section 2. That section 61-205 of the Revised Codes of the State of Montana, 1947, enacted as section 5, chapter 240, of the session laws of the thirty-fifth legislative assembly of the State of Montana of 1957, be, and the same is hereby amended to read as follows:

Consent to adoption of minor—when and by whom.

"61-205. **Persons required to consent to the adoption.** An adoption of a child may be decreed when there have been filed written consents to adoption executed by:

"(1) Both parents, if living, or the surviving parent, of a legitimate child; provided, that consent shall not be required from a father or mother, *(a)* adjudged guilty by a court of competent jurisdiction of physical cruelty toward said child; or,

"*(b)* adjudged to be an habitual drunkard; or,

"*(c)* who has been judicially deprived of the custody of the child on account of cruelty or neglect toward the child; or,

"*(d)* who has, in the State of Montana, or in any other state of the United States, wilfully abandoned such child; or,

"*(e)* who has caused the child to be maintained by any public *or private children's institution,* charitable agency, or any licensed adoption agency, or the state department of public welfare of the State of Montana for a period of one (1) year without contributing to the support of said child during said period, *if able;* or,

"*(f) if it is proven to the satisfaction of the court that said father or mother, if able, has not contributed to the support of said child during a period of one (1) year before the filing of a petition for adoption; or (an adoption of a child may be decreed when there have been filed written consents to adoption executed by).*

"(2) The mother, alone, if the child is illegitimate; or,

"(3) The legal guardian of the person of the child if both parents are dead or if the rights of the parents have been terminated by judicial proceedings and such guardian has authority by order of the court appointing him to consent to the adoption; or,

"(4) The executive head of an agency *if the child has been relinqusihed for adoption to such agency* or if the rights of the parents have been judicially terminated, *or if both parents are dead,* and custody of the child has been legally vested in such agency with authority to consent to adoption of the child; or,

"(5) Any person having legal custody of a child by court order if the parental rights of the parents have been judicially terminated, but in such case the court having jurisdiction of the custody of the child must consent to adoption, and a certified copy of its order shall be attached to the petition.

"The consents required by paragraphs (1) and (2) shall be acknowledged before an officer authorized to take acknowledgements, or witnessed by a representative of the state department of public welfare or of an agency, or witnessed by a representative of the court."

Amending clause.

Section 3. That section 61-210 of the Revised Codes of the State of Montana, 1947, enacted as section 10, chapter 240, of the session laws of the thirty-fifth legislative assembly of the State of Montana of 1957, be, and the same is hereby amended to read as follows:

Summary decree—when.

"61-210. **Summary decree.** If the child is related by blood to one of the petitioners, or is a stepchild of the petitioner, or the court finds that the best interests of the child will be furthered thereby, the court, after examination of the report *specified* in section 61-209, *if such report had been ordered by said court,* in its discretion, may waive the entry of an interlocutory decree and the waiting period of six (6) months provided in section 61-211 and grant a final decree of adoption if satisfied that the adoption is for the best interests of the child."

Amending clause.

Section 4. That section 61-211 of the Revised Codes of the State of Montana, 1947, enacted as section 11,

chapter 240 of the session laws of the thirty-fifth legislative assembly of the State of Montana, 1957, be, and the same is hereby amended to read as follows:

Interlocutory decree.

"61-211. **Interlocutory and final decree.** Upon examination of the report described in section 61-209, *if such report has been deemed necessary by said court,* and after hearing, the court may issue an interlocutory decree giving the care and custody to the petitioners pending the further order of the court.

Service of process.

"When a petition has been filed seeking the adoption of a child, the court must cause service of process to be made on the parent or parents of the child, except in those cases hereinafter provided, in the following manner:

Citation.

"The court shall order a citation to issue to the parent or parents in the name of the State of Montana and under the seal of the court, directing such parent or parents to appear in court at a time to be fixed by the court, and show cause why said petition should not be granted. Such citation, together with a copy of the petition for adoption, shall be personally served upon such parent or parents.

Service by publication.

If, however, any such parent or parents cannot be found within this state, service may be had by publication of a copy of said citation in the manner provided for the publication of summons by section 93-3014. If after completion of such service, any parent so served does not appear, the court may act upon the petition, and the order of the court thereon shall be binding upon all persons so served; provided that any such person shall have the right to appeal from the order in the manner and form provided for appeals from a judgment in civil actions.

Appeal.

Hearing.

"The petitioners and the child shall appear at said hearing, unless the presence of the child is waived by the court.

When service of process unnecessary.

"Service of process, as aforesaid, need not be made on a parent who has consented in writing to an adoption; or on the father of an illegitimate child; or on any parent whose consent to adoption is not required under the provisions of section 2 of this act (section 61-205, as herein amended); and service of process shall not be made on any parent who has relinquished his child to the state department of public welfare or an adoption agency licensed by the state department of public welfare.

Investigator shall report to court.

"After an interlocutory decree, as aforesaid, has been issued by the court, the investigator, *if any,* shall observe the child in his adoptive home and report in writing to the court within six (6) months on any circumstances or conditions which may have a bearing on the adoption.

Final decree after hearing and notice.

After six (6) months from the date of the interlocutory decree, the petitioners may apply to the court for a final decree of adoption. The court shall thereupon set a time and place for final hearing. Notice of the time and date of the hearing shall be served on the state department of public welfare, and the investigator, *if any.* The investigator, *if any,* shall file with the court a written report of *his* findings and recommendations and certify that the described investigation, if any, has been made since the granting of the interlocutory decree. After hearing on said application, at which the petitioners and the child shall appear, unless the presence of the child is waived by the court, the court may enter a final decree of adoption if satisfied that the adoption is for the best interests of the child. *If the adoption is denied, an appropriate order shall be made as to the future custody of said child."*

Amending clause.

Section 5. That section 61-140 of the Revised Codes of the State of Montana, 1947, be, and the same is hereby amended to read as follows:

Procedure—adoption of adult.

"61-140. **Procedure applicable.** That, except as otherwise inconsistent with this act, the procedure and law for adoption of minors set forth in sections *61-203, 61-204, 61-208, 61-210, 61-211, and 61-212,* shall be applicable in proceedings for the adoption of an adult under the provisions of this act; *provided, however, that provisions concerning an interlocutory decree shall not be applicable in the case of the adoption of an adult."*

Amending clause.

Section 6. That chapter 2, title 61, Revised Codes of Montana, 1947, as amended, be, and hereby is amended by addition of a new section entitled "Minor Parent," to be numbered 61-218, and to read as follows:

Minor parent.

"61-218. A parent who is a minor shall have the right to relinquish his or her child for adoption, and such relinquishment shall not be subject to revocation by reason of such minority."

Repealing clause.

Section 7. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 7, 1961.

CHAPTER 200

An Act to Provide for Issuing Temporary Permits to Unlicensed Special Fuel Users of All Special Fuel Vehicles; to Provide That Said Permits Shall be Issued for a Minimum Fee of Twenty Dollars ($20.00) and Shall be Valid for a Period of Time Not to Exceed Seventy-two (72) Hours; to Provide for a Method of Collection and Disposal of Said Fees; to Provide That the State Board of Equalization Shall Furnish Said Permits and Forms and Generally Enforce This Act; and Providing a Penalty.

Be it enacted by the Legislative Assembly of the State of Montana:

Temporary special fuel permit.

Section 1. A temporary permit shall be issued to all unlicensed users of all special fuel vehicles operating within the State of Montana. The permits will be issued by scale house personnel, gross vehicle weight (g.v.w.) patrol crews, Montana highway patrolmen, and such other enforcing agents as the board of equalization may prescribe by order, rule or regulation.

Fee.

Section 2. The temporary special fuel permits shall cost the special fuel vehicle user a fee of twenty dollars ($20.00); said permit shall be valid for a period of time not to exceed seventy-two (72) hours and will be automatically void should said vehicle leave the State of Montana during the seventy-two (72) hour period. All fees collected will be remitted to the state board of equalization. Special fuel temporary permits, remittance forms and any other necessary papers for the accounting and enforcement of this act shall be furnished by the state board of equalization.

Penalty—operation without permit.

Section 3. Any unlicensed user of special fuel vehicles operating within the State of Montana, without making application for said temporary permit, and paying the specified fee, shall be guilty of committing a misdemeanor and upon conviction, be fined fifty dollars ($50.00).

Nothing contained herein shall affect the existing policy of accepting a compliance bond to be retained for use by the state board of equalization and to be imposed at the discretion of the enforcing agency.

Approved March 7, 1961.

CHAPTER 201

An Act to Revise the Requirements, Procedures and Methods of Filing and Adopting Rates, Charges, Fares, Classifications, and Rules of Service for Motor Carriers; Repealing Section 8-104, Revised Codes of Montana, 1947, as Amended by Chapter 262, Laws of Montana, 1955; Repealing Section 8-106, Revised Codes of Montana, 1947, and All Acts and Parts of Acts in Conflict Herewith; Providing for An Effective Date.

Be it enacted by the Legislative Assembly of the State of Montana:

Duty to fix rates.

Section 1. **Board's duty to fix rates.** It shall be the duty of the board to fix, alter, regulate and determine just, fair, reasonable, non-discriminatory, and sufficient rates, fares, charges, classifications, and rules of service for the operation of class A and B motor carriers within this state. The board also may fix and determine reasonable maximum or minimum rates for the operations of any class C motor carrier when the same are required for the best interests of public transportation.

Rate schedules must be filed.

Section 2. **Rate schedules, filing with board.** Every class A or B motor carrier holding a certificate must maintain on file with the board a full and complete schedule of its rates, fares, charges, classifications, rules of service, and any and all tariff provisions relating to such rates, fares, charges, classifications, or rules. Every schedule on file with and approved by the board on the effective date of this act shall remain in full force and effect until changed or modified by the board or by the carrier with the approval of the board.

Approval.

No change, modification, alteration, increase, or decrease in any rate, fare, charge, classification, or rule of service shall be made by any motor carrier without first obtaining the approval of the board. The board shall